REMARKS

The claims have been amended by rewriting claims 3, 5 and 11, and canceling claim 14. Claims 1-13 and 15-18 remain in the application. Claims 5 and 11 were amended to correct typographical errors.

The actions taken are in the interest of expediting prosecution and with no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art. Further, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references. Reconsideration of this application is respectfully requested.

35 U.S.C. § 112, second paragraph

Claims 3 and 14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 has been amended to more distinctly claim the subject matter. Claim 14 has been cancelled, rending this rejection moot with regards to claim 14.

35 U.S.C. § 103

Claims 1, 2, 4-13, and 15-18 are rejected under 35 U.S.C. § 103 as being unpatentable over Razavi et al. (WO 00/77620 A2, hereinafter Razavi et al.) in view of Foglar (U.S. Patent No. 5,671,215, hereinafter Foglar). Applicants' respectfully traverse the rejection and request reconsideration. It is incumbent upon the Examiner to prove a *prima facie* case of obviousness (MPEP 2143). To establish a *prima facie* case three basic criteria must be met. First, the prior art reference must teach or suggest all the claim limitations. Second, there must be a reasonable expectation of success. Finally, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference.

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TRAVERSE (i): There is no motivation or suggestion contained in the cited art to combine the teachings of the references.

Before obviousness may be established, the Office Action *must show specifically* the principle, known to one of ordinary skill that suggests the claimed combination. In re Lee, 277 F.3d 1338, 1343 (Fed. Cir. 2002). In other words, the Examiner *must explain* the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention. Id. The factual question of motivation is material to patentability and *cannot be resolved based on subjective belief and unknown authority*. Id. at 1344. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577 (Fed. Cir. 1984). The critical inquiry is whether there is something in the prior art as a whole *to suggest* the desirability, and thus the obviousness, of making the combination. Fromson v. Advance Offset Plate, 755 F.2d 1549, 1556 (Fed. Cir. 1985). The *Office Action fails to show either a suggestion in the art or a compelling motivation based on sound scientific principles to combine the references and therefore the rejection under 35 U.S.C. § 103(a) is improper and should be withdrawn*. Applicants respectfully submit that there is no suggestion to combine the references, and if they could be properly combined, do not lead to the Applicants' invention.

TRAVERSE (ii): The combination does not provide Applicants' claimed invention.

Applicants' independent claims 1, 8 and 15 call for, among other things, in a vehicle comprising a first device and a second device, the first device and the second device being communicatively coupled by an active network.

Razavi et al. teaches an automobile having network devices coupled to an in-car network (page 3, lines 23-24). Razavi et al. goes on to teach an in-car network that is built around an on-board compute platform (22) where all components of the in-car network are either directly plugged into the compute platform (22) or coupled to it via an Ethernet connection (Figure 2, and page 5, line 38 to page 6, line 2). In addition, Razavi et al. reinforces that all computing for the in-car network must go through a central computing resource by stating that "compute platform 22 is at the center of in-car sub-network 20." (page 7, line 36).

Razavi et al. does not disclose or teach *in a vehicle comprising a first device and a second device, the first device and the second device being communicatively coupled by an active network.* First of all, Razavi et al. does not disclose or teach an active network. An active network is fundamentally different from the network disclosed by Razavi et al. and not merely a packet data network as disclosed on pages 12-13 of Razavi et al. As is known in the art, an active network is a network that does **not** use a central computing resource (i.e. a network utility or arbiter as described on page 6, lines 4-6 of the Applicant's specification). Active elements within an active network enable multiple simultaneous communication paths between devices within the network/vehicle (page 7, lines 6-7 of Applicant's specification). An active network is a network in which the nodes are programmed to perform custom operations on the messages that pass through the node. An active network does not require or use a central server or computing resource, as each node in the active network passes "smart packets" that use a self-describing language that allows information carried within a packet to be operated on by a node in the active network. This is contrasted with the in-car network (20) taught by Razavi et al. that requires a central compute platform (22) to control the in-car network and where there is certainly not multiple simultaneous communication paths between devices.

Secondly, the nodes disclosed in Figure 3 of Razavi et al. (items 20, 24 and 26-29) are not active network elements (that can perform the functions described above) and do not contain device network elements forming a portion of an active network as claimed by Applicants. In fact, these elements (items 20, 24 and 26-29) taught by Razavi et al. are coupled to central compute platform (22) and are "dumb" elements that depend entirely on the central compute platform (22) to communicate with other elements in the in-car network (20) (as shown above). Therefore, there are no multiple simultaneous communication paths between devices within the network taught by Razavi et al. and therefore, no active network or devices with device network elements that form a portion of an active network.

Folgar teaches a method and circuit for transmitting message cells via redundant virtual path pairs of an ATM communication network (abstract). Folgar goes on to teach that message cells supplied to switching equipment (CCa) are duplicated and separately transmitted to switching equipment (CCb) via an active path and an alternative path (column 4, lines 47-52). The active path as taught by Folgar refers to a path that is currently capable transmitting data and

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does not refer in any way to an active network as discussed above. Folgar does not disclose or teach a vehicle or an active network.

"The identical invention must be shown in as complete detail as is contained in the ... claim." <u>Richardson v. Suzuki Motor Co.</u>, 868 F.2d 1226, 1236 (Fed. Cir. 1989). MPEP § 2131. Contrary to Examiner's statement that all elements are disclosed in Razavi et al. and Foglar, Applicants' claimed elements including *in a vehicle comprising a first device and a second device, the first device and the second device being communicatively coupled by an active network*, are not disclosed or taught in Razavi et al or Foglar. Since Razavi et al. and Foglar, independently or in combination, do not contain at least these features of the Applicants' independent claims 1, 8 and 15, they does not include all of the elements of Applicants' independent claims 1, 8 and 15 and therefore cannot make obvious Applicants' independent claims.

Applicants believe that this rejection has been overcome.

Claims 2-7 depend either directly or indirectly from claim 1 and are believed to be allowable over the relied on references for at least the same reasons as claim 1.

Claims 9-13 depend either directly or indirectly from claim 8 and are believed to be allowable over the relied on references for at least the same reasons as claim 8.

Claims 16-18 depend either directly or indirectly from claim 15 and are believed to be allowable over the relied on references for at least the same reasons as claim 15.

Prior Art Not Relied Upon

The references cited but not relied upon are not believed to anticipate or make obvious applicants' invention.

Summary

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any

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claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

Accordingly, this application is believed to be in proper form for allowance and an early notice of allowance is respectfully requested.

Please charge any fees associated herewith, including extension of time fees, to 502117.

Respectfully submitted,

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